

REMARKS

Claims 1-23 and 35-38 are active, and claim 24-34 and 39-50 are withdrawn from consideration. Claims 35-38 are cancelled herein.

Rejections under 35 USC § 112

Applicants amend claim 1 in response to the Examiner's comments in the Office Action, to clarify the invention, and to remedy the rejections under 35 USC § 112. Amendments are made to render consistent claimed elements of the invention and rectify non-conforming language.

In claim 1, added claim language "an observation light optical path for transmitting the observation light" finds support in the specification on page 53, last paragraph, "...as observation light (observation beam) 124...". Support in the specification for the added claim language "a reference light optical path for transmitting the reference light" is found on page 34, last paragraph. The specification discloses "the reference light at the optical path length variation mechanism 20" on page 34, last paragraph. The observation light and reference light claim language both find support in the specification on page 35, third paragraph, which discloses a "going and retuning optical path length (optical path length of the observation light side)" and a "going and returning optical path length for the reference light".

Added claim language “optical scanning means for scanning light on the object to be measured” find support in the specification on page 20, last paragraph which discloses “optical scanning means built in, for converging and irradiating low-coherence light onto body tissue”.

Added claim language “the transmission efficiency of the reference light of the reference light optical path” finds support in the specification on page 23, first full paragraph, which discloses “an optical path length variation mechanism 20 for changing the optical path length for standard light (reference light)”. No new matter has been added.

Further, Applicants believe the amendments to claim 1 remedy the confusion between “light detection means”, “light receiving system”, “focal position detecting means”, and “focus light detecting means”, which was addressed by the Examiner in the Office Action. Also, Applicants change the language “general accordance” to “substantially accord” in claim 1. The term “accord” is used and defined throughout the specification, for example, on pages 71, 74, and 97.

Independent claim 23 is amended to conform with claim 1. Other amendments to independent claims 1 and 23 been made to claim 1 for clarity, and to conform to current U.S. practice. Thus, Applicants believe independent claims 1 and 23, as amended herein, to remedy the 35 USC § 112 rejections.

Applicants further amend dependent claims 4-8, 10, 12, and 17-21 to remedy the 35 USC § 112 rejections which follow from claim 1. Therefore, Applicants believe the rejections under 35 USC § 112 are remedied in the dependent claims as well.

Specifically, in claim 4, the language “distance changing means” finds support in the specification on page 31, last paragraph, which discloses “the optical path length adjusting jig 7 is set to the focal position Pf of the converging optical system 17 as shown in Fig. 6”, and also on page 32, second full paragraph.

The amendment of claims 6 and 7 changes the dependency to claim 4, and adds the language “the distance changing means” referring to the added language of claim 1 which was discussed above as finding support in the specification on page 31, last paragraph.

In the Office Action, the Examiner states that claims 1-23 appears to have allowable subject matter and that correcting the § 112 errors may place the claims in condition for allowance. Applicants believe the amended claims remedy the 35 USC § 112 errors, and therefore respectfully request that claims 1-23 be allowed.

The Substantive Rejection under 35 USC § 102

In the Office Action, claims 35-38 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No.: 5,321,501 to Swanson et al. Applicants hereby cancel claims 35-38 rendering the rejection moot.

Therefore, in view of the foregoing, Applicants respectfully requests reconsideration, withdrawal of all rejections, and allowance of all pending claims in due course. If the Examiner believes that a telephone conference with the Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to contact the undersigned, Applicant's attorney, at the number provided below.

Respectfully submitted,



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